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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/719,326	7590 10/13/2004	Karin Loffler	D078 1110	7007
James F Vaughan P O Box 725388 Atlanta, GA 31139-9388			EXAMINER COLE, ELIZABETH M	
			ART UNIT 1771	PAPER NUMBER

DATE MAILED: 10/13/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

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Office Action Summary	Application No. 09/719,326	Applicant(s) LOFFLER, KARIN	
	Examiner Elizabeth M. Cole	Art Unit 1771	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 19 July 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-23 and 25-28 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-23, 25-28 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

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1. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.
2. Claims 1-23, 25-28 are rejected under 35 U.S.C. 103(a) as being unpatentable over Vinod in view of Edinger for the reasons set forth in the previous office action
3. Applicant's arguments filed 7/19/04 have been fully considered but they are not persuasive. Applicant argues that Vinod teaches that the basis weight is a result effective variable only when the fabric base forms a separate stabilizing layer beneath the plastic fabric and cites in support of this argument col. 2, lines 21-27 where Vinod states "In this event [when the fabric forms the stabilizing layer] the fabric base is selected from a material that has sufficient strength, elongation, dimensional stability and puncture resistance". However, Vinod does not limit the discussion of the strength of the fabric layer to those instances where the fabric base is used as a stabilizing layer. In the discussion at col. 2, lines 23-62, Vinod discusses selecting the materials which are suitable for use as the fabric base. In the discussion of nonwoven fabrics, particular attention is paid to spunbonded and spunlaced fabrics due to their strength. Further, in example 1, the same fabric layer acts as both the fabric base layer which is embedded in the plastic matrix and as the stabilizing layer. See col. 10, lines 6-14. Therefore, Vinod teaches that a single layer, such as the PVC-coated polyester open mesh backing of example 1, can be both the fabric base and the stabilizing layer and that this single layer can be embedded in the plastic matrix. Therefore, since, as shown in example 1, Vinod clearly teaches that the fabric base layer, when acting as the

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stabilizing layer, can be embedded in the plastic matrix, Vinod clearly teaches optimizing the basis weight of the fabric base layer.

4. With regard to the combination of Edinger and Vinod, Applicant asserts that there is no reasonable expectation of success because Vinod requires a stabilizing system in combination with the base resin and a plasticizer. However, Vinod teaches that the base resin may be PVC. Edinger teaches that the material disclosed therein is an improvement over PVC based materials because of the negative ecologic aspects associated with floor coverings comprising PVC and softener. See col. 1, lines 40-46. Therefore, there would be a reasonable expectation that the floor covering of Vinod could be made with the material disclosed by Edinger, since Edinger teaches the desirability of the substitution.

5. Applicant argues that even if the two teachings were combine the combination does not teach or suggest the claimed invention because Vinod teaches that the PVC flexible layer which may be disposed over the plastic matrix of the decorative layer. However, the plastic matrix itself may be PVC. See example 1, as well as col. 4, line 38.

6. In view of the misnumbering of the claims by the examiner in the previous office action, this action will not be made final.

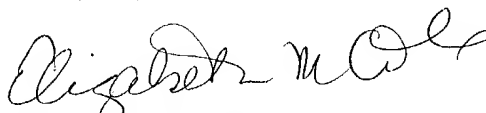
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Elizabeth M. Cole whose telephone number is (571) 272-1475. The examiner may be reached between 6:30 AM and 6:00 PM Monday through Wednesday, and 6:30 AM and 2 PM on Thursday.

Mr. Terrel Morris, the examiner's supervisor, may be reached at (571) 272-1478.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

The fax number for all official faxes is (703) 872-9306.

A handwritten signature in cursive script, appearing to read "Elizabeth M. Cole".

Elizabeth M. Cole
Primary Examiner
Art Unit 1771

e.m.c